

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA
Plaintiff,

v.

Case No. 00-CR-97

ANTHONY SEWARD
Defendant.

DECISION AND ORDER

Defendant Anthony Seward moves for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2). Section 3582(c)(2) provides:

in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(o), upon motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

The Commission lists the guideline amendments upon which a § 3582(c)(2) motion may be based in policy statement 1B1.10(c).

I sentenced defendant Seward to 188 months in prison, the low end of the guideline range, on his guilty plea to crack cocaine charges. In his motion, defendant notes that the Sentencing Commission has reduced base offense levels for crack cocaine offenses and made the changes retroactive. See U.S.S.G. § 1B1.10(c) (listing Amendments 706, 711 and 715). However, as defendant acknowledges, he qualified as a career offender under U.S.S.G. § 4B1.1 and was sentenced pursuant to that designation. The Sentencing Commission has

made no retroactive changes to the career offender guideline. Accordingly, the range upon which defendant's sentence was based has not been lowered as required by § 3582(c)(2). For this reason, and for the reasons stated more fully in United States v. Biami, 548 F. Supp. 2d 661 (E.D. Wis. 2008) (denying virtually identical motion), which I incorporate herein by reference, the motion must be denied. Accord United States v. Lee, No. CR 93-00216, 2008 WL 2357243 (N.D. Cal. June 6, 2008); United States v. Nunnally, No. 1:03-CR-53, 2008 WL 2266301 (N.D. Ind. June 2, 2008).

THEREFORE, IT IS ORDERED that defendant's motion (R. 137) is **DENIED**.

Dated at Milwaukee, Wisconsin this 30th day of June, 2008.

/s Lynn Adelman

LYNN ADELMAN
District Judge